O. Parsi-Pub-

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File No. Trusts Regn 46

Legal Department

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Subject:—

Opinions Under the Bombay Parsi Public Trusts Registration Act, 1936.

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File No. O Parsi Public Trusts Regn/46

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C O N T E N T S.

Legal Department File No. C. Parsi Public Trusts Regn/46

Sr. No.	R.I. / O. No.	Subject	Pages.
		Opinions under the Bombay Parsi Public Trusts Registration Act, 1936.	
1.	ON 7198 21-10-46.	Re: Govt. proposal to add some explanation to rule 18 of the Rules. Question whether the view that the explanation in question would constitute an attempt to amend the Act itself and would be ~~inxxx~~ utra vires, is correct.	1-2.

NVK. 28/7.

Recd 30/7

PHB 30/7

Office of the R.L.A.

By draft Notification No.6336/33 dated 31-5-1946 Government proposes to add the following explanation to rule 18 of the Parsi Public Trusts Registration Rules, 1937:-

> "for the purposes of this rule the term 'gross amual income' shall not include donations given or offerings made with a specific direction that they should form part of the corpus of the public trust property".

The Chief Judge, Court of Small Causes, Bombay considers that the aforesaid explanation is ultra vires inasmuch as it amounts to "putting upon the words 'gross income' in the proviso to section 15 of the Parsi Public Trusts Registration Act,1936,other than the natural and logical one and would as such constitute an attempt to ~~amend~~ amend the Act itself and would be ultra vires." The R.L.A. is requested to advise whether the view taken by the Chief Judge, Court of small Causes, Bombay in correct.

It is true that the term "gross income of public trust" in the proviso to section 15 of the Parsi Public Trusts Registration Act,1936 not being defined in the Act itself, no rule either restricting or enlarging the ordinary meaning of that term can be validly made under the Act; but by adding the explanation to rule 18 of the Parsi Public Trusts Registration Rules Government does not propose to define the term "gross income". What is intended by the explanation is to exclude "donations given or offerings made with a specific direction that they should form part of the corpus of the public trust property" from the gross annual income for the purpose of assessing the rate. Consequently the explanation would be intra vires clause(n) of section 25(2) of the Parsi Public Registration Act, 1925. The view taken by the Chief Judge, small Causes Court, Bombay is not correct.

Sd/ P.N.M.
Remembrancer of Legal Affairs.

EHM.10/7/ U.R. to R.D.No.7198.dt.21.10.46.